

MAY 17 1993

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

In re Applications of)	MM DOCKET NO. <u>93-75</u>
)	
TRINITY BROADCASTING OF FLORIDA, INC.)	File No. BRCT-911001LY
)	
For Renewal of License of Station)	
WHFT(TV), Channel 45, Miami, Florida)	
)	
GLENDAL E BROADCASTING COMPANY)	File No. BPCT-911227KE
)	
For a Construction Permit for a New)	
TV Station on Channel 45 at Miami,)	
Florida)	

To: The Commission

MASS MEDIA BUREAU'S MOTION TO DISMISS
PETITION FOR RECONSIDERATION

1. On May 7, 1993, League of United Latin American Citizens ("LULAC") and Spanish American League Against Discrimination ("SALAD") (collectively "Petitioners"), jointly filed a Petition for Reconsideration of the Hearing Designation Order, FCC 93-148 (released April 7, 1993) ("HDO"), in the above captioned proceeding. The Mass Media Bureau opposes reconsideration for the following reasons.

2. Petitioners assert that the HDO erred by not designating for hearing all of the broadcast licenses held by Trinity Broadcasting Network ("TBN") and National Minority TV, Inc. ("NMTV").¹ Petitioners claim that the HDO's decision to

¹ Trinity is the licensee of 11 stations, and NMTV is the licensee of one station.

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allow TBN and NMTV to freely transfer their licenses without restriction constitutes an unwarranted departure from the Commission's policies under Jefferson Radio Co., Inc. v. FCC, 340 F.2d 781 (D.C. Cir. 1964), and Grayson Enterprises, Inc., 79 FCC 2d 936 (1980), modified, Transferability of Broadcast Licenses, 53 RR 2d 126 (1983).

3. The Petition is procedurally defective and should be dismissed. Section 1.106(a)(1) of the Commission's Rules states:

A petition for reconsideration of an order designating a case for hearing will be entertained if, and insofar as, the petition relates to an adverse ruling with respect to petitioner's participation in the proceeding.

47 C.F.R. § 1.106(a)(1).

4. In the instant case, neither LULAC nor SALAD claims that the Petition relates to an adverse ruling with respect to its participation in this proceeding. LULAC admittedly played no role in the earlier stages of this case and is not entitled to party status, while SALAD is a party to the proceeding. See HDO, at ¶ 51. Thus, Petitioners have completely failed to state a basis upon which their claims for relief can be considered.

5. Section 1.106(a)(1) of the Commission's Rules establishes only one, very limited circumstance under which petitions for reconsideration of hearing designation orders will be entertained. That circumstance is inapplicable here.

Moreover, Petitioners have not demonstrated any reason why the Commission should depart from its standard practice of refusing to consider petitions for reconsideration of hearing designation orders. See, Black Television Workshop of Los Angeles, Inc., 4 FCC Rcd 3871, 3872, ¶ 4-8.

6. Even if the Petition were not procedurally defective and subject to dismissal, it should be denied because the substantive arguments advanced by LULAC and SALAD lack merit. Contrary to Petitioners' claims, the HDO's decision concerning the other broadcast interests of TBN and NMTV did not constitute a departure from the Commission's Grayson policy, as modified.

7. It is the Commission's current policy to settle the transferability status of commonly-held licenses at the time of designation. The basic issue involved in making a determination on the status of a licensee's other authorizations is "whether there is a substantial likelihood that the allegations warranting designation of one station for hearing bear upon the operation of other stations." Transferability of Broadcast Licenses, 53 RR 2d at 126.

8. In the instant case, the Commission determined, based upon the information before it at the time, that there would not be a "substantial likelihood" that the issues in this proceeding would have a bearing on the "operation" of the broadcast

interests held by TBN and NMTV. Thus, the Commission held:

[w]hile the outcome of this proceeding could have implications for all stations licensed to NMTV, TBN and its affiliates, we believe that there is no need to designate those licenses for hearing at this time. Although the issues being specified in this case are not limited to the operation of WHFT(TV), we are not prepared, at this time, to conclude that they are so fundamental that they would affect the qualifications of NMTV, TBN or its affiliates to hold any station license. See 1986 Character Policy Statement, 102 FCC 2d at 1223.

HDO, at ¶ 45.

Additionally, in recognition of the same concerns expressed by Petitioners, the Commission went on to state that "[i]f issues (a) and (b), set forth [in the HDO] are resolved against NMTV, TBN or its affiliates, the Commission will determine what actions are appropriate in connection with the stations licensed to these entities." HDO, at ¶ 45.

9. It is apparent from the foregoing that, while the Commission recognized that the issues in this proceeding might possibly impact on TBN and NMTV, it determined that they were not so fundamental so as to create a substantial likelihood that the operations of the TBN and NMTV stations would be implicated. Furthermore, despite the fact that it allowed TBN and NMTV to freely transfer their licenses, the Commission nevertheless explicitly cautioned that an adverse determination in this case could precipitate appropriate action against TBN's and NMTV's other holdings.

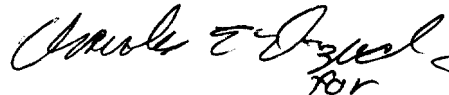
10. The Commission's determination in the HDO as to the TBN and NMTV stations constituted a reasonable exercise of agency discretion consistent with prevailing policy. Petitioners may disagree with the Commission's determination, but they have not shown that the Commission in any way abused its discretion.

11. Accordingly, the Petition for Reconsideration, jointly filed on May 7, 1993, by League of United Latin American Citizens and Spanish American League Against Discrimination, should be dismissed.

Respectfully submitted,
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May 17, 1993

CERTIFICATE OF SERVICE

I, Michelle C. Mebane, a secretary in the Hearing Branch, Mass Media Bureau, certify that I have, on this 17th of May 1993, sent by regular United States mail, U.S. Government frank, copies of the foregoing, "Mass Media Bureau's Motion to Dismiss Petition for Reconsideration" to:

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